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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 TOMMIE SLACK,

10 Plaintiff,

11 v.

12 MICHAEL WOODBURY, et al.,

13 Defendant.

14 CASE NO. C19-159-RSM

15 **ORDER DENYING MOTION TO**
16 **AMEND**

17 Plaintiff Tommie Slack commenced this action pursuant to 42 U.S.C. § 1983 and 42
18 U.S.C. § 2000cc alleging violations of the Religious Land Use and Institutionalized Persons Act
19 (RLUIPA). Mr. Slack's complaint relates to his alleged exposure to pork or pork products as a
20 Muslim while working as an inmate trustee in the kitchen at the King County Correctional
21 Facility. Dkt. 1-2. Mr. Slack now moves to amend his complaint. Dkt. 18. Defendants oppose the
22 proposed amendment. Dkt. 19. The Court **DENIES** the motion (Dkt. 18) because the proposed
23 amended complaint would cause undue prejudice to defendants.

24 **DISCUSSION**

25 At this point in the litigation Mr. Slack may no longer amend as a matter of course and,
26 as such, pursuant to Fed. R. Civ. P. 15(a), he "may amend [his] pleading only by leave of the
27 court or by written consent of the adverse party; and leave shall be freely given when justice so

1 requires.” While this rule should be liberally interpreted, leave to amend “is not to be granted
2 automatically.” *Jackson v. Bank of Hawaii*, 902 F.2d 1385, 1387 (9th Cir. 1990). In determining
3 whether to allow an amendment to a complaint Courts consider the following factors: “the
4 presence or absence of undue delay, bad faith, dilatory motive, undue prejudice to the opposing
5 party, and futility of the proposed amendment.” *Moore v. Kayport Package Express, Inc.*, 885
6 F.2d 531, 538 (9th Cir.1989).

7 Here, the Court finds the proposed amendment would cause undue prejudice to
8 defendants. The amended complaint is contradictory and confusing making it unclear what relief
9 plaintiff is seeking and what factual allegations he intends to include. For instance, plaintiff’s
10 amended complaint states he “is moving to amend his complaint to sue the named defendants in
11 their official capacity and not their individual capacity.” Dkt. 18, at 5. However, on the following
12 page, plaintiff proceeds to state that he is suing the named defendants in their individual
13 capacity. *Id.*, at 6. In his reply to the motion, Mr. Slack then appears to indicate that he intends to
14 sue the defendants only in their official capacity. Dkt. 20.

15 Plaintiff’s amended complaint also omits several pages which were previously included
16 in his original complaint resulting in fragmented claims and allegations. *See* Dkt. 18. In his reply
17 to the motion, plaintiff contends that the defendants should not be confused “over pages being
18 missing from the original complaint when counsel is now in possession of both complaints
19 filed.” Dkt. 20, at 6. However, generally, an amended complaint operates as a complete
20 substitute (not as a supplement) for the original complaint. *See Ferdik v. Bonzelet*, 963 F.2d
21 1258, 1262 (9th Cir. 1992). Furthermore, under the circumstances here it is unclear which
22 allegations from the original complaint plaintiff intended to include, or exclude, from the
23 amended complaint.

1 Due to the contradictory and fragmented nature of plaintiff’s amended complaint, the
2 pleading fails to afford defendants sufficient notice of the nature of plaintiff’s claims to allow
3 them to properly respond. *See Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555, 127 S. Ct. 1955,
4 1964, 167 L. Ed. 2d 929 (2007) (Federal Rule of Civil Procedure 8(a)(2) requires that, in order to
5 state a claim for relief, a complaint must provide “a short and plain statement of the claim
6 showing that the pleader is entitled to relief,” in order to “give the defendant fair notice of what
7 the ... claim is and the grounds upon which it rests[.]”) (internal citation and quotation marks
8 omitted). It would be unduly prejudicial to require the defendants, not to mention the Court, to
9 attempt to piece together or guess at which claims plaintiff intended to include in his amended
10 complaint.

11 Accordingly, Mr. Slack's motion to amend his complaint (Dkt. 18) is **DENIED**. The
12 clerk is directed to provide a copy of this order to the parties and the assigned District Judge.

DATED this 2nd day of May, 2019.


BRIAN A. TSUCHIDA
Chief United States Magistrate Judge